

Message Text

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ACTION EA-09

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FM AMEMBASSY JAKARTA

TO SECSTATE WASHDC PRIORITY 5722

CONFIDENTIAL JAKARTA 9445

E.O. 11652: GDS

TAGS: ENRG, EFIN, ID

SUBJECT: IRS ELABORATION ON REVENUE RULING 761215

REF : STATE 177348

1. APPRECIATE INFORMATION CONTAINED IN REFTEL. INITIAL CONVERSATIONS WITH PRODUCTION-SHARING OIL COMPANIES HERE HAVE PRODUCED REACTION ON IRS PRESS STATEMENT MUCH LESS POSITIVE THAN THOSE CONVEYED IN PARA 4 REFTEL. EMBOFF SPOKE WITH VISITING TAX COUNSELS FROM ARCO AND UNION WHO ARE HERE IN CONJUNCTION WITH CURRENT ROUND NEGOTIATIONS WITH GOI ON PRODUCTION-SHARING CONTRACTS. UNION LAWYER FELT THAT IRS ELABORATION, COUPLED WITH RULING 76-215, COULD HAVE SERIOUS, ADVERSE EFFECT ON SO-CALLED "GRANDFATHER CLAUSE" WHEREBY TAXES PAID TO GOI UNDER CONTRACTS ENTERED INTO BEFORE APRIL 8, 1976 ARE NOT AFFECTED FOR TAXABLE YEARS BEGINNING BEFORE JUNE 30, 1976. UNION COUNSELOR FEARED THAT ANY SUBSTANTIAL REVISION IN CONTRACTS, RETROACTIVE TO JANUARY 1, 1976, WOULD DESTROY GRANDFATHER CLAUSE PROTECTION.

2. ARCO LAWYER ALSO CONCERNED ABOUT COMPUTATION OF TAX LIABILITY ON BASIS COMPANY'S ENTIRE OPERATIONS WITHIN FOREIGN COUNTRY (AS NOTED IN REFTEL). IT WAS FELT THAT SOLUTION TO THIS PROBLEM MIGHT BE ESTABLISHMENT SEPARATE COMPANY FOR EACH AREA OF OPERATION.

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3. COMPANIES COLLECTIVELY BELIEVE THIS IRS DEVELOPMENT WILL HAVE SERIOUS IMPACT ON CURRENT DISCUSSIONS, MAKING IT DIFFICULT FOR GOI TO ARRANGE SETTLEMENT BY JULY 31. WE WOULD BE GRATEFUL FOR ANY FOLLOW UP REPORTING DEPARTMENT CAN PROVIDE RE VIEWS ON OIL COMPANIES AS WELL AS GOI ADVISORS ROGERS AND WELLS.

NEWSOM

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